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05-CV-00919-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SUN LIFE ASSURANCE COMPANY OF
CANADA, a foreign insurer,

Plaintiff,

v.

JAVON LOFTON, a single woman; LAURA
MARSHALL, a single woman,

Defendants.

CASE NO. C05-0919C

ORDER

This matter has come before the Court on Defendant Marshall's motion for summary judgment (Dkt. No. 12). No opposition papers have been filed in response. Having considered the record now before the Court, the Court hereby GRANTS the motion.

Rule 56 of the Federal Rules of Civil Procedure governs summary judgment motions, and provides in relevant part, that "[t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." FED. R. CIV. P. 56(c). In determining whether an issue of fact exists, the court must view all evidence in the light most favorable to the non-moving party and draw all reasonable inferences

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1 in that party's favor. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248-50 (1986); *Bagdadi v. Nazar*,
2 84 F.3d 1194, 1197 (9th Cir. 1996). A genuine issue of material fact exists where there is sufficient
3 evidence for a reasonable fact-finder to find for the non-moving party. *Anderson*, 477 U.S. at 248. The
4 moving party bears the burden of showing that there is no evidence which supports an element essential
5 to the non-movant's claim. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). In order to defeat a
6 motion for summary judgment, the non-moving party must make more than conclusory allegations,
7 speculations or argumentative assertions that material facts are in dispute. *Wallis v. J.R. Simplot Co.*, 26
8 F.3d 885, 890 (9th Cir. 1994).

9 This case involves a dispute between two claimants for the life insurance benefits on the life of
10 decedent Gerald Lofton. Plaintiff does not deny that benefits are due. Rather, Plaintiff seeks to
11 determine to whom the benefits should be paid.

12 The record reflects that on July 15, 2004, Gerald Lofton completed, signed and submitted to his
13 employer a Beneficiary Designation for a life insurance plan naming Defendant Laura Marshall as the
14 beneficiary. (Landry Decl. Ex. 3.) Gerald Lofton passed away on December 12, 2004.

15 Defendant Javon Lofton submitted a claim for Mr. Lofton's insurance benefits, claiming to be
16 Mr. Lofton's wife, and enclosing a beneficiary designation form apparently signed and dated by Mr.
17 Lofton on December 6, 2004. (*Id.* Ex. 5.) Mr. Lofton's employer did not receive this form until
18 February 4, 2005. (*Id.* Ex. 6.) In addition, the employer's benefits manager noted that the enrollment
19 packet containing the beneficiary change forms had not been mailed to Mr. Lofton until December 9th or
20 10th, 2004, a few days after the date on the form received in February 2005. (*Id.*)

21 The policy language describing the procedure by which an insured may change his or her
22 designated beneficiary provides that "[a]ny request for change of Beneficiary . . . will take effect as of
23 the date the Employee signs and files the change with the Employer." (*Id.* Ex 7-3.) Here, the undisputed
24 fact is that the designation form listing Ms. Lofton as the beneficiary was not received by Mr. Lofton's
25 employer until February 4, 2005. This is almost two months after Mr. Lofton passed away. Thus, at the

1 time of Mr. Lofton's death, Ms. Marshall was still the beneficiary of the plan. Under Michigan law,
2 which governs the insurance contract in this case (*id.* Ex. 7-3), Ms. Marshall's interest "attached
3 instantly upon the death of the insured." *Aetna Life Ins. Co. v. Owens*, 27 N.W.2d 607, 611 (Mich.
4 1947). For these reasons, the Court finds that there remains no genuine issue of material fact that Ms.
5 Marshall is entitled to the remainder of the insurance proceeds. Accordingly, Ms. Marshall's motion for
6 summary judgment is hereby GRANTED.

7 The Clerk of Court is hereby authorized and directed to release said \$14,581.08, plus accrued
8 interest, to Defendant Laura Marshall and her attorney of record, Larry J. Landry.

9 SO ORDERED this 30~~th~~ day of March, 2006.

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12 UNITED STATES DISTRICT JUDGE
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